

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

FERDINAND REYNOLDS,

Plaintiff,

vs.

CISNEROS, et al.,

Defendants.

**1:20-cv-01101-AWI-GSA-PC**

**ORDER ADDRESSING MOTION FOR  
LEAVE TO AMEND AND INFORMING  
PLAINTIFF HE HAS LEAVE TO AMEND  
THE COMPLAINT ONCE AS A MATTER  
OF COURSE**

**(ECF No. 13.)**

**THIRTY-DAY DEADLINE TO FILE THE  
FIRST AMENDED COMPLAINT**

**I. BACKGROUND**

Ferdinand Reynolds (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on August 10, 2020. (ECF No. 1.) On February 17, 2022, the Court screened the Complaint and issued findings and recommendations recommending that this case be dismissed for failure to state a claim, without leave to amend. (ECF No. 10.)

On March 21, 2022, Plaintiff file objections to the findings and recommendations. (ECF No. 13.) Plaintiff notified the Court that he had inadvertently submitted the wrong prison appeal in his Complaint and therefore needed to present the correct prison appeal that has been fully reviewed and exhausted. Based on Plaintiff's objections, on April 19, 2023, the Court vacated the findings and recommendations issued on February 17, 2022. (ECF No. 14.)

Plaintiff requests leave to amend his original Complaint to allow him to include his fully exhausted prison appeal that was inadvertently left out of his original Complaint.

**II. MOTION FOR LEAVE TO AMEND PURSUANT TO FRCP 15(a)(2)**

Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served. Otherwise, a party may amend only by leave of the court or by written consent of the adverse party, and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a). Because Plaintiff has not amended the Complaint, and no responsive pleading has been served in this action, Plaintiff has leave to file an amended complaint as a matter of course.

**III. CONCLUSION**

Accordingly, it is **HEREBY ORDERED** that:

1. Plaintiff is informed that he has leave to amend the complaint once as a matter of course;
2. Plaintiff is granted thirty days from the date of service of this order, but no later than April 24, 2023, in which to file a First Amended Complaint that includes his fully exhausted prison appeal that was inadvertently left out of his original Complaint; and
3. If Plaintiff fails to file an amended complaint by April 24, 2023, this case shall proceed on the original Complaint filed on August 10, 2020.

IT IS SO ORDERED.

Dated: March 20, 2023

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE